

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:05-00107

GEORGE M. LECCO
also known as "Porgy"
VALERI FRIEND

UNITED STATES RESPONSE TO DEFENDANTS'
JOINT OMNIBUS MOTION TO RENEW PREVIOUSLY
FILED MOTIONS TO PRESERVE THE RECORD

Comes now the United States of America by Philip H. Wright, Assistant United States Attorney for the Southern District of West Virginia, and responds to defendants' Joint Omnibus Motion to Renew Previously Filed Motions to Preserve the Record. The Joint Omnibus Motion should be denied.

The parties filed numerous motions before the first trial in this case. The Court ruled on all but a few of those motions. The table attached hereto as Exhibit A lists the motions that were resolved and the corresponding orders of the Court, as best as counsel can determine.

In their Joint Omnibus Motion, the defendants have presented no reasons for the Court to reconsider its prior rulings. Therefore, the prior orders of the Court should stand. There is no need to refile or renew motions that have already been decided, simply to preserve the record. In addition, there is no need for

an additional order "to place a current obligation on the government to make continuing disclosures." Joint Omnibus Motion at p.1. The Arraignment Orders entered in this case place such a continuing obligation on the United States and the defendants. Indeed, on twenty-seven occasions in this case, the United States has supplemented its original discovery response.

In the interest of clarifying the record, the defendant should file specific motions. If there is reason to revisit an issue already decided, then any motion for specific relief should explain why the Court's previous ruling should be reconsidered.¹

¹In May 2006, defendant Friend withdrew six of the motions that she lists in the Joint Omnibus Motion, and as a result those six motions were not formally resolved. See Notice of Withdrawal of Motions Without Prejudice of Defendant Valeri Friend (Docket Entry 145) (listing Motions docketed as entries 55-60). The six motions were filed by former counsel David Perry, Esq. Mr. Perry withdrew as counsel on November 8, 2005. At least some of those motions now appear to be superfluous or moot.

Defendants filed a joint motion to permit unsworn allocution during the penalty phase. The United States opposed the motion. Counsel for the United States has not located an order, but the defendants did not allocute. If the defendants' joint motion to permit unsworn allocution is deemed "renewed," then the United States objects and relies on its previous response filed on February 22, 2007 (Docket No. 403).

For those reasons, the defendants' Joint Omnibus Motion should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing "UNITED STATES RESPONSE TO DEFENDANTS' JOINT OMNIBUS MOTION TO RENEW PREVIOUSLY FILED MOTIONS TO PRESERVE THE RECORD" has been electronically filed with the Clerk of Court this the 24th day of August, 2009 using the CM/ECF system and served upon opposing counsel as follows:

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